

REMARKS

In the non-Final Office Action mailed April 19, 2007, claims 1-38 were pending. Claims 19-38 were withdrawn as being directed to a non-elected invention. Claims 6-14 were objected to but indicated to be allowable if rewritten in independent form, and claims 1-5 and 15-18 stand rejected.

It was noted that the original claims did not include a claim 10, so claim 10 has been indicated as cancelled in this response, and claim 11 has been amended to depend from claim 9. Claims 19-38 have been cancelled without prejudice to pursuit in a divisional application. Claims 39-58 have been added. Claim 1 has been amended, and claims 2, 9 and 13 have been amended to maintain consistency with amended claim 1. Claim 16 has been amended to correct a clerical error in identifying the element to which the first member is connected. Reconsideration of the present application as amended and including claims 1-9, 11-18 and 39-58 is respectfully requested.

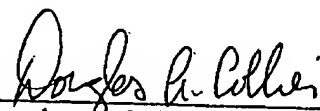
Claims 1-5 and 15-18 stand rejected as being unpatentable under 35 USC §103(a) over U.S. Patent No. 5,947,970 to Schmelzelsen et al. in view of U.S. Patent Application Publication No. 2003/0208203 to Lim et al. (hereafter the "Lim et al.") Schmelzelsen discloses a connecting tube 1 that is positioned to connect to distal end 15 of endoscope attachment element 8. Endoscope attachment element 8 includes a plate holder 7 to hold bone plate 6 and a guide track 11. Bone plate holder 7 is moved along guide track 11 to align a hole in the bone plate 6 with aperture 14 in distal end 15 of endoscope attachment element 8. A drill bit, screwdriver, screw or any fastener is inserted through connecting tube 1 through the plate hole aligned with aperture 14 to secure the plate to the bone. Schmelzelsen fails to disclose, teach or suggest any housing member extending proximally from bone plate 6 along an implantation axis of bone plate 6, or any driving instrument adapted to deliver a driving force to any housing member to move bone plate 6 along the implantation axis. Lim fails to remedy the deficiencies in Schmelzelsen. Accordingly, claim 1 is believed to be allowable and withdrawal of the rejection of the same is respectfully requested. Claims 2-5 and 15-18 depending from claim 1 are allowable at least for the reasons claim 1 is allowable.

Response to Non-Final Office Action
Serial No. 10/718,072
Atty. Docket No. MSDI-495/PC800.00
Page 10 of 11

Claims 39-58 have been added in this response. Independent claim 39 corresponds to original claim 6 and its intervening claims, and also recites the longitudinal axis of the shaft assembly in original claim 2. Claim 39 is allowable as indicated in the office action. Claims 40-50 depend from claim 39, and correspond to claim 2 as amended herein, original claims 3, 7-9, 11-12, 15, claim 16 as amended herein, and original claims 17-18, respectively. Independent claim 51 corresponds to original claim 13 and its intervening claims, and also recites the longitudinal axis of original claim 2. Claim 51 is allowable as indicated in the office action. Claims 52-58 depend from claim 51, and correspond to original claims 14-15, claim 16 as amended herein, original claims 17-18, claim 2 as amended herein, and original claim 3, respectively. Accordingly claims 39-58 are allowable.

In view of the foregoing amendments, reconsideration and allowance of the present application including claims 1-9, 11-18 and 39-58 is respectfully requested. The undersigned would welcome an interview with the Examiner to resolve any outstanding issues that might arise with respect to the present application.

Respectfully submitted,

By: 
Douglas A. Collier, Reg. No. 43,556
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
(317) 238-6333 (voice)
(317) 238-6371 (facsimile)

Response to Non-Final Office Action
Serial No. 10/718,072
Atty. Docket No. MSDI-495/PC800.00
Page 11 of 11